

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 741

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DANIEL P. SILVA

AN ACT

RELATING TO GAMBLING; ENACTING THE INDIAN GAMING COMPACT;
ENACTING A REVENUE-SHARING AGREEMENT TO PROVIDE FOR REVENUE
SHARING BETWEEN THE STATE AND AN INDIAN NATION, TRIBE OR PUEBLO
CONDUCTING GAMING PURSUANT TO THE COMPACT; ENACTING THE VIDEO
GAMBLING ACT TO PERMIT CERTAIN NONTRIBAL GAMBLING; PROVIDING
PENALTIES; CREATING A FUND; IMPOSING A GAMBLING TAX; AMENDING
AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] INDIAN GAMING COMPACT ENTERED
INTO. -- The Indian Gaming Compact is enacted into law and entered
into with all Indian nations, tribes and pueblos in the state
legally joining in it by enactment of a resolution pursuant to
the requirements of applicable tribal and federal law. The

. 116065. 1

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 compact is enacted and entered into in the form substantially as
2 follows:

3 "INDIAN GAMING COMPACT

4 INTRODUCTION

5 The State is a sovereign State of the United States of
6 America, having been admitted to the Union pursuant to the Act
7 of June 20, 1910, 36 Statutes at Large 557, Chapter 310, and is
8 authorized by its constitution to enter into contracts and
9 agreements, including this Compact, with the Tribe;

10 The Tribe is a sovereign federally recognized Indian tribe
11 and its governing body has authorized the officials of the Tribe
12 to enter into contracts and agreements of every description,
13 including this Compact, with the State;

14 The Congress of the United States has enacted the Indian
15 Gaming Regulatory Act of 1988, 25 U. S. C. §§ 2701-2721
16 (hereinafter "IGRA"), which permits Indian tribes to conduct
17 Class III Gaming on Indian Lands pursuant to a tribal-state
18 compact entered into for that purpose;

19 The Tribe owns or controls Indian Lands and by Ordinance
20 has adopted rules and regulations governing Class III games
21 played and related activities at any Gaming Facility;

22 The State and the Tribe, in recognition of the sovereign
23 rights of each party and in a spirit of cooperation to promote
24 the best interests of the citizens of the State and the members
25 of the Tribe, have engaged in good faith negotiations

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 recognizing and respecting the interests of each party and have
2 agreed to this Compact.

3 NOW, THEREFORE, the State and the Tribe agree as follows:

4 TERMS AND CONDITIONS

5 SECTION 1. Purpose and Objectives.

6 The purpose and objectives of the State and the Tribe in
7 making this Compact are as follows:

8 A. To evidence the good will and cooperative spirit
9 between the State and the Tribe;

10 B. To continue the development of an effective government-
11 to-government relationship between the State and the Tribe;

12 C. To provide for the regulation of Class III Gaming on
13 Indian Lands as required by the IGRA;

14 D. To fulfill the purpose and intent of the IGRA by
15 providing for tribal gaming as a means of generating tribal
16 revenues, thereby promoting tribal economic development, tribal
17 self-sufficiency, and strong tribal government;

18 E. To provide revenues to fund tribal government
19 operations or programs, to provide for the general welfare of
20 the tribal members and for other purposes allowed under the
21 IGRA;

22 F. To provide for the effective regulation of Class III
23 Gaming in which the Tribe shall have the sole proprietary
24 interest and be the primary beneficiary; and

25 G. To address the State's interest in the establishment,

. 116065. 1

1 by the Tribe, of rules and procedures for ensuring that Class
2 III Gaming is conducted fairly and honestly by the owners,
3 operators, employees and patrons of any Class III Gaming
4 enterprise on Indian Lands.

5 SECTION 2. Definitions.

6 For purposes of this Compact, the following definitions
7 pertain:

8 A. "Class III Gaming" means all forms of gaming as defined
9 in 25 U.S.C. § 2703(8), and 25 C.F.R. § 502.4.

10 B. "Indian Lands" means:

11 1. all lands within the exterior boundaries of the
12 Tribe's reservation and its confirmed grants from prior
13 sovereigns; or

14 2. any other lands title to which is either held in
15 trust by the United States for the exclusive benefit of the
16 Tribe or a member thereof or is held by the Tribe or a member
17 thereof subject to restrictions against alienation imposed by
18 the United States, and over which the Tribe exercises
19 jurisdiction and governmental authority.

20 C. "Tribal Gaming Agency" means the tribal governmental
21 agency which will be identified to the State Gaming
22 Representative as the agency responsible for actions of the
23 Tribe set out in the Compact. It will be the single contact
24 with the State and may be relied upon as such by the State.

25 D. "State Gaming Representative" means that person

1 designated by the Governor of the State, who will be responsible
2 for actions of the State set out in the Compact. The
3 representative will be the single contact with the Tribe and may
4 be relied upon as such by the Tribe. If the State Legislature
5 enacts legislation to establish an agency of the State, such
6 agency may assume the duties of the State Gaming Representative.

7 E. "Compact" means this compact between the State and the
8 Tribe.

9 F. "Gaming Facility" means the buildings or structures in
10 which Class III Gaming is conducted on Indian Lands.

11 G. "Management Contract" means a contract within the
12 meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.

13 H. "Management Contractor" means any person or entity that
14 has entered into a Management Contract with the Tribe.

15 I. "Ordinance" means the gaming ordinance and any
16 amendments thereto adopted by the Tribal Council of the Tribe.

17 J. "Tribe" means any Indian Tribe or Pueblo located
18 within the State of New Mexico entering into this Compact as
19 provided for herein.

20 K. "State" means the State of New Mexico.

21 SECTION 3. Authorized Class III Gaming.

22 The Tribe may conduct, only on Indian Lands, subject to all
23 of the terms and conditions of this Compact, any or all forms of
24 casino-style gaming, including but not limited to slot machines
25 and other forms of electronic gaming devices; all forms of

Underscored material = new
[bracketed material] = delete

1 poker, blackjack and other casino-style card games, both banked
2 and unbanked; roulette; craps; keno; wheel of fortune; pai gow;
3 and other games played in casino settings, and any form of a
4 lottery.

5 Subject to the foregoing, the Tribe shall establish, in its
6 discretion, by tribal law, such limitations as it deems
7 appropriate on the number and type of Class III Gaming
8 conducted, the location of Class III Gaming on Indian Lands, the
9 hours and days of operation, and betting and pot limits,
10 applicable to such gaming.

11 SECTION 4. Regulation of Class III Gaming.

12 A. Tribal Gaming Agency. The Tribal Gaming Agency will
13 assure that the Tribe will:

- 14 1. operate all Class III Gaming pursuant to this
15 Compact, tribal law, the IGRA and other applicable
16 Federal law;
- 17 2. provide for the physical safety of patrons in any
18 Gaming Facility;
- 19 3. provide for the physical safety of personnel
20 employed by the gaming enterprise;
- 21 4. provide for the physical safeguarding of assets
22 transported to and from the Gaming Facility and
23 cashier's cage department;
- 24 5. provide for the protection of the property of the
25 patrons and the gaming enterprise from illegal

. 116065. 1

- 1 activity;
- 2 6. participate in licensing of primary management
- 3 officials and key employees of a Class III Gaming
- 4 enterprise;
- 5 7. detain persons who may be involved in illegal acts
- 6 for the purpose of notifying law enforcement
- 7 authorities; and
- 8 8. record and investigate any and all unusual
- 9 occurrences related to Class III Gaming within the
- 10 Gaming Facility.

11 B. Regulations. Without affecting the generality of the
12 foregoing, the Tribe shall adopt laws:

- 13 1. prohibiting participation in any Class III Gaming
- 14 by any person under the age of twenty-one (21);
- 15 2. prohibiting the employment of any person as a key
- 16 employee or primary management official in a
- 17 position that is directly involved in Class III
- 18 Gaming activities who is under the age of twenty-
- 19 one (21) or who has not been licensed in
- 20 accordance with Section 5, herein;
- 21 3. prohibiting the play of any Class III Gaming for
- 22 at least four (4) consecutive hours daily, Mondays
- 23 through Thursdays (except federal holidays);
- 24 4. prohibiting a gaming enterprise from cashing any
- 25 paycheck or any type of government assistance

. 116065. 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- check, including Social Security, AFDC, pension and other such checks, for any patron;
5. requiring that, if feasible, automatic teller machines on Gaming Facility premises be programmed so that the machines will not accept cards issued by the State to AFDC recipients for access to AFDC benefits, and so that such machines limit the amount that a person may withdraw on a single day;
 6. providing that each electronic or electromechanical gaming device in use at the Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than seventy-five percent (75%);
 7. providing that within eighteen (18) months from the date on which this Compact takes effect, all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each gaming machine in use at the Gaming Facility, and that such data shall be electronically accessible to the State Gaming Representative upon entry of appropriate security codes;

Underscored material = new
[bracketed material] = delete

- 1 8. prohibiting any gaming enterprise from offering
- 2 free food or free alcoholic beverages to patrons;
- 3 9. requiring the gaming enterprise to spend an amount
- 4 that is no less than one-quarter of one percent
- 5 (.25%) of its net win as that term is defined
- 6 herein annually to fund or support programs for
- 7 the treatment and assistance of compulsive
- 8 gamblers; and
- 9 10. governing any Management Contract regarding its
- 10 Class III Gaming activity such that it conforms to
- 11 the requirements of tribal law and the IGRA and
- 12 the regulations issued thereunder.

13 The Tribal Gaming Agency will provide true copies of all

14 tribal laws and regulations affecting Class III Gaming conducted

15 under the provisions of this Compact to the State Gaming

16 Representative within thirty (30) days after the effective date

17 of this Compact, and will provide true copies of any amendments

18 thereto or additional laws or regulations affecting gaming

19 within thirty (30) days after their enactment (or approval, if

20 any).

21 C. Audit and Financial Statements. The Tribal Gaming

22 Agency shall require all books and records relating to Class III

23 Gaming to be maintained in accordance with generally accepted

24 accounting principles. All such books and records shall be

25 retained for a period of at least six (6) years from the date of

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 creation. Not less than annually, the Tribal Gaming Agency
2 shall require an audit and a certified financial statement
3 covering all financial activities of the gaming enterprise by an
4 independent certified public accountant licensed by the State.

5 The financial statement shall be prepared in accordance with
6 generally accepted accounting principles and shall be submitted
7 to the Tribal Gaming Agency within one hundred twenty (120) days
8 of the close of the Tribe's fiscal year. The Tribe will
9 maintain the following records for not less than six (6) years:

- 10 1. revenues, expenses, assets, liabilities and equity
11 for each Gaming Facility;
- 12 2. daily cash transactions for each Class III Gaming
13 activity at each Gaming Facility, including but
14 not limited to transactions relating to each
15 gaming table bank, game drop box and gaming room
16 bank;
- 17 3. all markers, IOU's, returned checks, hold check or
18 other similar credit instruments;
- 19 4. individual and statistical game records (except
20 card games) to reflect statistical drop and
21 statistical win; for electronic, computer, or
22 other technologically assisted games, analytic
23 reports which show the total amount of cash
24 wagered and the total amount of prizes won;
- 25 5. contracts, correspondence and other transaction

. 116065. 1

- 1 documents relating to all vendors and contractors;
- 2 6. records of all tribal gaming enforcement
- 3 activities;
- 4 7. audits prepared by or on behalf of the Tribe; and
- 5 8. personnel information on all Class III Gaming
- 6 employees or agents, including rotation sheets,
- 7 hours worked, employee profiles and background
- 8 checks.

9 D. Violations. The agents of the Tribal Gaming Agency
10 shall have unrestricted access to the Gaming Facility during all
11 hours of Class III Gaming activity, and shall have immediate and
12 unrestricted access to any and all areas of the Gaming Facility
13 for the purpose of ensuring compliance with the provisions of
14 this Compact and the Ordinance. The agents shall report
15 immediately to the Tribal Gaming Agency any suspected violation
16 of this Compact, the Ordinance, or regulations of the Tribal
17 Gaming Agency by the gaming enterprise, Management Contractor,
18 or any person, whether or not associated with Class III Gaming.

19 E. State Gaming Representative.

- 20 1. Upon written request by the State to the Tribe,
- 21 the Tribe will provide information on primary
- 22 management officials, key employees and suppliers,
- 23 sufficient to allow the State to conduct its own
- 24 background investigations, as it may deem
- 25 necessary, so that it may make an independent

. 116065. 1

1 determination as to the suitability of such
2 individuals, consistent with the standards set
3 forth in Section 5, hereinafter. The Tribe shall
4 consider any information or recommendations
5 provided to it by the State as to any such person
6 or entity, but the Tribe shall have the final say
7 with respect to the hiring or licensing of any
8 such person or entity.

9 2. Notwithstanding that the Tribe has the primary
10 responsibility to administer and enforce the
11 regulatory requirements, the State Gaming
12 Representative authorized in writing by the
13 Governor of the State or by legislation duly
14 enacted by the State Legislature shall have the
15 right to inspect a Gaming Facility, Class III
16 Gaming activity, and all records relating to Class
17 III Gaming (including those set forth in Section
18 5, hereinafter) of the Tribe, subject to the
19 following conditions:

- 20 (a) with respect to public areas of a Gaming
21 Facility, at any time without prior notice
22 during normal business hours;
- 23 (b) with respect to private areas of a Gaming
24 Facility not accessible to the public, at any
25 time during normal business hours, immediately

- 1 after notifying the gaming enterprise
2 management of his or her presence on the
3 premises and presenting proper identification,
4 and requesting access to such non-public areas
5 of the Gaming Facility;
- 6 (c) with respect to inspection and copying of all
7 management records relating to Class III
8 Gaming, with forty-eight (48) hours prior
9 written notice, not including weekends. The
10 reasonable costs of copying will be borne by
11 the State; and
- 12 (d) whenever the State Gaming Representative, or
13 his designee, enters the premises of the
14 Gaming Facility for any such inspection, such
15 Representative, or designee, shall identify
16 himself to security or supervisory personnel
17 of the Gaming Facility.
- 18 3. The financial information, proprietary ideas,
19 plans, methods, data, development inventions or
20 other proprietary information regarding the gaming
21 enterprise of the Tribe, Class III Gaming conducted
22 by the Tribe, or the operation thereof, which is
23 provided to the State by the Tribe shall not be
24 deemed public records as a matter of state law, and
25 shall not be disclosed to any member of the public,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

without the prior written approval of a duly authorized representative of the Tribe. These prohibitions shall not be construed to prohibit:

- (a) the furnishing of any information to a law enforcement or regulatory agency of the Federal Government;
- (b) the State from making known the names of persons, firms, or corporations conducting Class III Gaming pursuant to the terms of this Compact, locations at which such activities are conducted, or the dates on which such activities are conducted;
- (c) publishing the terms of this Compact;
- (d) disclosing information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against the State; and
- (e) complying with subpoenas or court orders issued by courts of competent jurisdiction.

4. To the fullest extent allowed by State law, the Tribe shall have the right to inspect State records concerning all Class III Gaming conducted by the Tribe; the Tribe shall have the right to copy such State records, with the Tribe bearing the reasonable cost of copying.

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

5. For every year or part thereof in which the Tribe is actually engaged in Class III Gaming hereunder, the Tribe shall reimburse the State for the actual costs the State incurs in carrying out any functions authorized by the terms of this Compact, in an amount not to exceed twenty-five thousand dollars (\$25,000) per year. All calculations of amounts due shall be based upon a fiscal year beginning October 1, and ending September 30, unless the parties select a different fiscal year. Payments due the State shall be made no later than sixty (60) days after the beginning of each fiscal year. Payments due the State during any partial fiscal year this Compact is in effect shall be adjusted to reflect only that portion of the fiscal year. Within sixty (60) days after each fiscal year in which this Compact is in effect, the State shall submit to the Tribe an accounting of actual costs incurred in carrying out any functions authorized by the terms of this Compact. Any amount of said twenty-five thousand dollars (\$25,000) not expended by the State on said actual costs shall be returned to the Tribe by the State within sixty (60) days after the fiscal year or treated as a prepayment of the Tribe's obligation

Underscored material = new
[bracketed material] = delete

1 during the subsequent fiscal year.

2 6. In the event the State believes that the Tribe is
3 not administering and enforcing the regulatory
4 requirements set forth herein, it may invoke the
5 procedures set forth in Section 7 of this Compact.

6 F. The Tribe shall comply with all applicable provisions
7 of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31
8 U.S.C. §§ 5311-5314, and all reporting requirements of the
9 Internal Revenue Service.

10 SECTION 5. Licensing Requirements.

11 A. License Required. The Gaming Facility operator, (but
12 not including the Tribe) including its principals, primary
13 management officials, and key employees, the Management
14 Contractor and its principals, primary management officials, and
15 key employees (if the Tribe hires a Management Contractor); any
16 person, corporation, or other entity that has supplied or
17 proposes to supply any gaming device to the Tribe or the
18 Management Contractor; and any person, corporation or other
19 entity providing gaming services within or without a Gaming
20 Facility, shall apply for and receive a license from the Tribal
21 Gaming Agency before participating in any way in the operation
22 or conduct of any Class III Gaming on Indian Lands.

23 B. License Application. Each applicant for a license
24 shall file with the Tribal Gaming Agency a written application
25 in the form prescribed by the Tribal Gaming Agency, along with

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 the applicant's fingerprint card, current photograph and the fee
2 required by the Tribal Gaming Agency.

- 3 1. The following Notice ("Privacy Act Notice") shall
4 be placed on the application form for a principal,
5 key employee or a primary management official
6 before that form is filled out by an applicant:

7 "In compliance with the Privacy Act of
8 1974, the following information is
9 provided: Solicitation of the
10 information on this form is authorized by
11 25 U.S.C. §§ 2701-2721. The purpose of
12 the requested information is to determine
13 the eligibility of individuals to be
14 employed in a gaming enterprise. The
15 information will be used by members and
16 staff of the Tribal Gaming Agency and the
17 National Indian Gaming Commission who
18 have need for the information in the
19 performance of their official duties.
20 The information may be disclosed to
21 appropriate federal, tribal, state, local
22 or foreign law enforcement and regulatory
23 agencies when relevant to civil, criminal
24 or regulatory investigations or
25 prosecutions or when, pursuant to a

. 116065. 1

1 requirement by a Tribe, or the National
2 Indian Gaming Commission, the information
3 is relevant to the hiring or firing of an
4 employee, the issuance or revocation of a
5 gaming license or investigations of
6 activities while associated with a Tribe
7 or a gaming enterprise. Failure to
8 consent to the disclosures indicated in
9 this Notice will result in a Tribe being
10 unable to hire you in a primary
11 management official or key employee
12 position with a tribal gaming enterprise.
13 The disclosure of your Social Security
14 Number (SSN) is voluntary. However,
15 failure to supply an SSN may result in
16 errors in processing your application. "

- 17 2. Existing principals, key employees and primary
18 management officials shall be notified, in writing,
19 that they shall either:
20 (a) complete a new application form that contains
21 a Privacy Act Notice; or
22 (b) sign a statement that contains the Privacy Act
23 Notice and consent to the routine uses
24 described in that Notice.
25 3. The following Notice ("False Statement Notice")

1 shall be placed on the application form for a
2 principal, key employee or a primary management
3 official before that form is filled out by an
4 applicant:

5 "A false statement on any part of your
6 application may be grounds for not hiring you
7 or for firing you after you begin work. Also,
8 you may be punished by fine or imprisonment.
9 See 18 U.S.C. § 1001. "

- 10 4. The Tribal Gaming Agency shall notify, in writing,
11 existing principals, key employees and primary
12 management officials that they shall either:
13 (a) complete a new application form that contains
14 a False Statement Notice; or
15 (b) sign a statement that contains the False
16 Statement Notice.
- 17 5. The Tribal Gaming Agency shall request from each
18 applicant, and from each principal, primary
19 management official and key employee of each
20 applicant, all of the following information:
21 (a) full name, other names used (oral or written),
22 Social Security Number(s), birth date, place
23 of birth, citizenship, gender and all
24 languages spoken or written;
25 (b) currently, and for the previous ten (10)

1 years, business and employment positions held,
2 ownership interests in those businesses,
3 business and residence addresses and driver's
4 license numbers; provided, that any applicant
5 who is a principal, primary management
6 official, key employee, Management Contractor,
7 manufacturer or supplier of gaming devices,
8 and/or a person providing gaming services,
9 must provide such information currently, and
10 from the age of eighteen (18);

11 (c) the names and current addresses of at least
12 three (3) personal references, including one
13 (1) personal reference who was acquainted with
14 the applicant during each period of residence
15 listed in Paragraph B. 5. (b) of this section;

16 (d) current business and residence telephone
17 numbers;

18 (e) a description of any existing and previous
19 business relationships with a Tribe, including
20 ownership interests in those businesses, and a
21 description of any potential or actual
22 conflict of interests between such businesses
23 and a Tribe;

24 (f) a description of any existing and previous
25 business relationships in the gaming industry,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- including, but not limited to, ownership interests in those businesses;
- (g) the name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (h) for each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved and the disposition, if any;
 - (i) for each misdemeanor for which there is an ongoing prosecution or conviction (excluding minor traffic violations), the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
 - (j) for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to Paragraph B. 5. (h) or B. 5. (i) of this Section, the criminal charge, the date of the charge, the name and address of the court involved and the

- 1 disposition, if any;
- 2 (k) the name and address of any licensing or
- 3 regulatory agency with which the person has
- 4 filed an application for an occupational
- 5 license or permit, as an applicant, principal,
- 6 primary management official or key employee,
- 7 and whether or not such license or permit was
- 8 granted;
- 9 (l) a current photograph;
- 10 (m) fingerprints, which shall be taken by officers
- 11 of the tribal police department. Pursuant to
- 12 a Memorandum of Understanding between the
- 13 Tribe and the National Indian Gaming
- 14 Commission ("Commission"), tribal police
- 15 officers shall forward the fingerprint cards
- 16 directly to the Commission;
- 17 (n) the fee required by the Tribal Gaming Agency;
- 18 and
- 19 (o) any other information the Tribal Gaming Agency
- 20 deems relevant.

21 C. Background Investigations.

- 22 1. Upon receipt of a completed application and
- 23 required fee for licensing, the Tribal Gaming
- 24 Agency shall conduct or cause to be conducted a
- 25 background investigation to ensure that the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

applicant is qualified for licensing.

2. Background checks of applicants will be performed pursuant to the following procedures:

- (a) The Tribal Gaming Agency will provide applications to potential applicants upon request and shall collect and maintain the applications.
- (b) Pursuant to a Memorandum of Understanding between the Tribe and the Commission, tribal police officers will collect fingerprints from all applicants and forward the fingerprint cards directly to the Commission. The Commission will obtain a criminal history record from the Federal Bureau of Investigation on each applicant and forward such information to the Tribal Gaming Agency.
- (c) The Tribal Gaming Agency shall investigate the information provided in the applications. This investigation shall include:
 - (1) contacting persons or entities identified in the application and verifying by written or oral communication that the information contained in the application is accurate;
 - (2) interviewing a sufficient number of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

knowledgeable people, such as former employers, partners, business associates, and others referred to in the application, to provide a basis for the Tribal Gaming Agency to make a determination concerning whether the applicant meets applicable eligibility requirements;

(3) reviewing relevant financial records of the applicant for the three (3) years preceding the application; and

(4) contacting any state, federal or other government agency that is referred to in the application.

(d) The Tribal Gaming Agency shall document any information it obtains that calls into question whether the applicant would meet the eligibility requirements under the Ordinance. The Tribal Gaming Agency shall then document in detail the disposition of these problem areas, indicating the follow-up investigations performed on the problem areas and the result of such investigations.

(e) The Tribal Gaming Agency will review the results of the investigation. This review

1 will include a determination as to the scope
2 of the investigation and whether sufficient
3 information was obtained and verified. If
4 such information is found not sufficient, the
5 Tribal Gaming Agency will perform additional
6 investigations.

7 (f) Once the investigation is complete, the Tribal
8 Gaming Agency will decide whether the
9 applicant meets the eligibility criteria under
10 the Ordinance.

- 11 3. In conducting a background investigation, the
12 Tribal Gaming Agency and its agents shall keep
13 confidential the identity of each person
14 interviewed in the course of the investigation.
- 15 4. Within twenty (20) days of the receipt of a
16 completed application for licensing, and upon
17 request of an applicant, the Tribal Gaming Agency
18 may issue a temporary license to the applicant,
19 unless the background investigation undertaken
20 discloses that the applicant has a criminal
21 history, or unless other grounds sufficient to
22 disqualify the applicant are apparent on the face
23 of the application. The temporary license shall
24 become void and be of no effect upon either:
25 (a) the issuance of the license;

Underscored material = new
[bracketed material] = delete

- 1 (b) the issuance of a notice of denial; or
- 2 (c) ninety (90) days after the temporary license
- 3 is issued, whichever occurs first.

4 5. The Tribal Gaming Agency shall review a person's
5 prior activities, criminal record, if any, and
6 reputation, habits and associations to make a
7 finding concerning the eligibility or suitability
8 of an applicant, or a principal, key employee or
9 primary management official of an applicant, for
10 employment or involvement in a gaming enterprise.
11 After such consultation, the Tribal Gaming Agency
12 shall either issue a license or deny the
13 application. If the Tribal Gaming Agency
14 determines that employment or involvement of the
15 applicant poses a threat to the public interest or
16 to the effective regulation of Class III Gaming or
17 creates or enhances dangers of unsuitable, unfair
18 or illegal practices, methods or activities in the
19 conduct of Class III Gaming, the Tribal Gaming
20 Agency shall deny the application.

21 6. The Tribal Gaming Agency shall retain the right to
22 conduct additional background investigations of any
23 person required to be licensed at any time while
24 the license is valid.

25 D. Procedure for Forwarding Applications and Reports.

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 Procedures for forwarding applications and investigative reports
2 to the Commission and State Gaming Representative.

- 3 1. When a key employee or primary management official
4 begins work at a gaming enterprise authorized by
5 this Compact, the Tribal Gaming Agency shall
6 forward to the Commission and the State Gaming
7 Representative a completed application for
8 employment.
- 9 2. The Tribal Gaming Agency shall forward the report
10 referred to in Paragraph D.4. of this section to
11 the Commission and the State Gaming Representative
12 within sixty (60) days after an employee begins
13 work, or within sixty (60) days of the approval of
14 this Compact by the Secretary of the Interior.
- 15 3. A key employee or primary management official who
16 does not have a license shall not be employed after
17 ninety (90) days.
- 18 4. The Tribal Gaming Agency shall prepare and forward
19 to the Commission and the State Gaming
20 Representative a report on each background
21 investigation ("Investigative Report"). An
22 Investigative Report shall include all of the
23 following:
 - 24 (a) steps taken in conducting the background
25 investigation;

. 116065. 1

- 1 (b) results obtained;
- 2 (c) conclusions reached; and
- 3 (d) the basis for those conclusions.
- 4 5. The Tribal Gaming Agency shall submit with the
- 5 Investigative Report a copy of the eligibility
- 6 determination made under Paragraph C.5. of this
- 7 section.
- 8 6. If a license is not issued to an applicant, the
- 9 Tribal Gaming Agency shall notify the Commission
- 10 and the State Gaming Representative.
- 11 7. With respect to principals, key employees and
- 12 primary management officials, the Tribal Gaming
- 13 Agency shall retain applications for employment and
- 14 Investigative Reports (if any) for no less than
- 15 three (3) years from the date of termination of
- 16 employment.
- 17 E. Granting a Gaming License.
- 18 1. If within thirty (30) days after it receives an
- 19 Investigative Report, neither the Commission nor
- 20 the State Gaming Representative has notified the
- 21 Tribal Gaming Agency that it has an objection to
- 22 the issuance of a license pursuant to a license
- 23 application filed by a principal, key employee or
- 24 primary management official, the Tribal Gaming
- 25 Agency may issue a license to such applicant.

Underscored material = new
[bracketed material] = delete

1 2. The Tribal Gaming Agency shall respond to any
2 request for additional information from the
3 Commission or the State Gaming Representative
4 concerning a principal, key employee or primary
5 management official who is the subject of an
6 Investigative Report. Such a request shall suspend
7 the thirty-day (30-day) period under Paragraph E. 1.
8 of this section until the Commission or the State
9 Gaming Representative receives the additional
10 information.

11 3. If, within the thirty-day (30-day) period described
12 above, the Commission or the State Gaming
13 Representative provides the Tribal Gaming Agency
14 with a statement itemizing objections to the
15 issuance of a license to a principal, key employee
16 or primary management official for whom the Tribal
17 Gaming Agency has provided an application and
18 Investigative Report, the Tribal Gaming Agency
19 shall reconsider the application, taking into
20 account the objections itemized by the Commission
21 and/or the State Gaming Representative, and make a
22 final decision whether to issue a license to such
23 applicant.

24 F. Management Contract.

25 1. If the Tribe chooses to enter into a Management

. 116065. 1

1 Contract, the Tribal Gaming Agency shall require
2 that all principals, primary management officials
3 and key employees of the Management Contractor be
4 licensed.

5 2. The Tribe may enter into a Management Contract only
6 if the Management Contract:

7 (a) provides that all Class III Gaming covered by
8 the Management Contract will be conducted in
9 accordance with the IGRA, the Ordinance and
10 this Compact;

11 (b) enumerates the responsibilities of each of the
12 parties for each identifiable function,
13 including:

- 14 (1) maintaining and improving the Gaming
15 Facility;
- 16 (2) providing operating capital;
- 17 (3) establishing operating days and hours;
- 18 (4) hiring, firing, training and promoting
19 employees;
- 20 (5) maintaining the gaming enterprise's books
21 and records;
- 22 (6) preparing the gaming enterprise's
23 financial statements and reports;
- 24 (7) paying for the services of the
25 independent auditor engaged pursuant to

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

25 C. F. R. § 571. 12;

- (8) hiring and supervising security personnel;
 - (9) providing fire protection services;
 - (10) setting an advertising budget and placing advertising;
 - (11) paying bills and expenses;
 - (12) establishing and administering employment practices;
 - (13) obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
 - (14) complying with all applicable provisions of the Internal Revenue Code of 1986, as amended;
 - (15) paying the cost of public safety services; and
 - (16) if applicable, supplying the Commission with all information necessary for the Commission to comply with the National Environmental Policy Act of 1969.
- (c) provides for the establishment and maintenance of satisfactory accounting systems and procedures that shall, at a minimum:
- (1) include an adequate system of internal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- controls;
 - (2) permit the preparation of financial statements in accordance with generally accepted accounting principles;
 - (3) be susceptible to audit;
 - (4) permit the calculation and payment of the Management Contractor's fee; and
 - (5) provide for the allocation of operating expenses or overhead expenses among the Tribe, the Management Contractor and any other user of a shared Gaming Facility and services;
- (d) requires the Management Contractor to provide the Tribe, not less frequently than monthly, verifiable financial reports or all information necessary to prepare such reports;
- (e) requires the Management Contractor to provide immediate access to the Gaming Facility, including its books and records, by appropriate officials of the Tribe, who shall have:
- (1) the right to verify the daily gross revenues and income from the gaming enterprise; and
 - (2) access to any other gaming-related

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- information the Tribe deems appropriate;
- (f) provides for a minimum guaranteed monthly payment to the Tribe in a sum certain that has preference over the retirement of development and construction costs;
- (g) provides an agreed upon maximum dollar amount for the recoupment of development and construction costs;
- (h) provides for a term not to exceed the period allowed by the IGRA;
- (i) details the method of compensating and reimbursing the Management Contractor. If a Management Contract provides for a percentage fee, such fee shall be either:
 - (1) not more than thirty percent (30%) of the net revenues of the gaming enterprise if the Chairman of the Commission determines that such percentage is reasonable considering the circumstances; or
 - (2) not more than forty percent (40%) of the net revenues if the Chairman of the Commission is satisfied that the capital investment required and income projections for the gaming enterprise require the additional fee;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- (j) provides the grounds and mechanisms for modifying or terminating the Management Contract;
 - (k) contains a mechanism to resolve disputes between:
 - (1) the Management Contractor and customers, consistent with the procedures in the Ordinance;
 - (2) the Management Contractor and the Tribe; and
 - (3) the Management Contractor and the gaming enterprise employees;
 - (l) indicates whether and to what extent contract assignments and subcontracting are permissible;
 - (m) indicates whether and to what extent changes in the ownership interest in the Management Contract require advance approval by the Tribe; and
 - (n) states that the Management Contract shall not be effective unless and until it is approved by the Chairman of the Commission, date of signature of the parties notwithstanding.
3. The Tribe shall not enter into any Management Contract if the Tribal Gaming Agency determines

Underscored material = new
[bracketed material] = delete

1 that the Management Contractor or any principal,
2 primary management official or key employee of the
3 Management Contractor is not licensed or is
4 ineligible to be licensed.

5 G. Confidentiality of Records. Any and all background
6 investigative reports on employees or contractors, supporting
7 documents acquired or generated in connection therewith, and any
8 other investigative reports or documents acquired or generated
9 in the course of investigations performed by the Tribe or the
10 Tribal Gaming Agency, that are provided to the State Gaming
11 Representative or any other agency or official of the State by
12 the Tribal Gaming Agency or the Tribe pursuant to the provisions
13 of this Compact, shall not be deemed public records of the State
14 and shall not be disclosed to any member of the public without
15 the prior express written authorization of an authorized
16 representative of the Tribe; provided, that nothing herein shall
17 preclude any State agency or official from providing information
18 to a federal agency or official having responsibility relative
19 to Indian Gaming or from compliance with any valid order of a
20 court having jurisdiction.

21 SECTION 6. Providers of Class III Gaming Equipment or Devices
22 or Supplies.

23 A. Within thirty (30) days after the effective date of
24 this Compact, if it has not already done so, the Tribal Gaming
25 Agency will adopt standards for any and all Class III Gaming

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 equipment, devices or supplies to be purchased, leased or
2 otherwise acquired by the Tribe after the effective date of this
3 Compact for use in any Gaming Facility, which standards shall be
4 at least as strict as the comparable standards applicable to
5 Class III Gaming equipment, devices or supplies within the State
6 of Nevada. Any and all Class III Gaming equipment, devices or
7 supplies acquired by the Tribe after the date of this Compact
8 shall meet or exceed the standards thereby adopted, and any and
9 all Class III Gaming equipment, devices or supplies used by the
10 Tribe in its Gaming Facilities as of the effective date of this
11 Compact shall be upgraded or replaced, if necessary, so as to
12 comply with such standards, by no later than one (1) year after
13 the effective date of this Compact.

14 B. Prior to entering into any future lease or purchase
15 agreement for Class III Gaming equipment, devices or supplies,
16 the Tribe shall obtain sufficient information and identification
17 from the proposed seller or lessor and all persons holding any
18 direct or indirect financial interest in the lessor or the
19 lease/purchase agreement to permit the Tribe to license those
20 persons in accordance with Section 5, hereof.

21 C. The seller, lessor, manufacturer or distributor shall
22 provide, assemble and install all Class III Gaming equipment,
23 devices or supplies in a manner approved and licensed by the
24 Tribe.

25 SECTION 7. Dispute Resolution.

. 116065. 1

1 A. In the event either party believes that the other party
2 has failed to comply with or has otherwise breached any
3 provision of this Compact, such party may invoke the following
4 procedure:

- 5 1. The party asserting noncompliance shall serve
6 written notice on the other party. The notice
7 shall identify the specific Compact provision
8 believed to have been violated and shall specify
9 the factual and legal basis for the alleged
10 noncompliance. The notice shall specifically
11 identify the date, time and nature of the alleged
12 noncompliance. Representatives of the State and
13 Tribe shall thereafter meet within thirty (30) days
14 in an effort to resolve the dispute.
- 15 2. In the event an allegation by the complaining party
16 is not resolved to the satisfaction of such party
17 within ninety (90) days after service of the notice
18 set forth in Paragraph (A)(1) of this section, the
19 complaining party may serve upon the other party a
20 notice to cease conduct of the particular game(s)
21 or activities alleged by the complaining party to
22 be in noncompliance. Upon receipt of such notice,
23 the responding party may elect to stop the game(s)
24 or activities specified in the notice or invoke
25 arbitration and continue the game(s) or activities

1 pending the results of arbitration. The responding
2 party shall act upon one of the foregoing options
3 within thirty (30) days of receipt of notice from
4 the complaining party.

- 5 3. Arbitration under this authority shall be conducted
6 under the Commercial Arbitration Rules of the
7 American Arbitration Association, except that the
8 arbitrators shall be attorneys who are licensed
9 members in good standing of the State Bar of New
10 Mexico or of the bar of another state. The State
11 will select one arbitrator, the Tribe a second
12 arbitrator, and the two so chosen shall select a
13 third arbitrator. If the third arbitrator is not
14 chosen in this manner within ten (10) days after
15 the second arbitrator is selected, the third
16 arbitrator will be chosen in accordance with the
17 rules of the American Arbitration Association.
- 18 4. All parties shall bear their own costs of
19 arbitration and attorney fees.
- 20 5. The results of arbitration shall be enforceable by
21 an action for injunctive or mandatory injunctive
22 relief against the State and the Tribe in any court
23 of competent jurisdiction. For purposes of any
24 such action, the State and the Tribe acknowledge
25 that any action or failure to act on the part of

Underscored material = new
[bracketed material] = delete

1 any agent or employee of the State or the Tribe,
2 contrary to a decision of the arbitrators in an
3 arbitration proceeding conducted under the
4 provisions of this section, occurring after such
5 decision, shall be wholly unauthorized and ultra
6 vires acts, not protected by the sovereign immunity
7 of the State or the Tribe.

8 B. Nothing in Subsection 7(A) shall be construed to waive,
9 limit or restrict any remedy that is otherwise available to
10 either party to enforce or resolve disputes concerning the
11 provisions of this Compact. Nothing in this Compact shall be
12 deemed a waiver of the Tribe's sovereign immunity. Nothing in
13 this Compact shall be deemed a waiver of the State's sovereign
14 immunity.

15 SECTION 8. Protection of Patrons.

16 A. Liability to Patrons. To ensure the personal safety
17 and protection of patrons and other invitees of a Tribe's Gaming
18 Facility operated under the provisions of this Compact, the
19 Tribe shall at all times maintain in effect a policy of public
20 liability insurance, insuring the Tribe, its agents and
21 employees against any claims, demands or liability that may
22 arise as a result of personal injury to any person (other than
23 an employee of the gaming establishment) occurring anywhere on
24 the premises of any gaming establishment operated by the Tribe
25 under the provisions of this Compact, or as a result of any act

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 or omission of any agent or employee of such gaming
2 establishment while in the course of his or her employment,
3 which policy shall provide personal injury coverage of no less
4 than one million dollars (\$1,000,000) per injured person and ten
5 million dollars (\$10,000,000) per occurrence.

6 The Tribe agrees that in the event of any claim made
7 against it or its gaming enterprise, or any agent or employee
8 thereof, arising out of any personal injury as described above,
9 neither the Tribe nor its insurer will assert any defense of
10 immunity from suit as to such claim for compensatory damages up
11 to the amount of one million dollars (\$1,000,000) per injured
12 person, and ten million dollars (\$10,000,000) per occurrence, in
13 any action filed in a court of competent jurisdiction to be
14 tried to the court; provided, however, that this agreement not
15 to assert such defense shall be strictly limited as provided
16 herein, and shall not apply to any claim for punitive damages,
17 or to any claim for which a jury trial is demanded, or to any
18 claim for any loss or damage other than that arising from actual
19 bodily injury or death, or to any claim for damages in excess of
20 the amount set forth herein. Nothing herein shall be construed
21 as stating or implying that the Tribe has waived or agreed not
22 to assert its immunity from suit for any other purpose or in any
23 other circumstance other than the limited purposes and
24 circumstances expressly set forth herein, and nothing herein
25 shall be construed as an admission of liability as to any claim

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 for damages or as an agreement or indication of willingness to
2 pay any amount as damages absent a judicial determination of
3 fault, and the Tribe or its insurer, or both, shall in every
4 instance have the right to defend any such claim fully on the
5 merits.

6 The Tribe shall provide to the State Gaming Representative
7 annually a certificate of insurance showing that its gaming
8 enterprise and its agents and employees engaged therein are
9 insured to the extent and in the circumstances required by this
10 section, or that it is self-insured to such extent and in such
11 circumstances. If the State Gaming Representative so requests
12 in writing, the certificate of insurance may be furnished
13 directly to the State Gaming Representative from the insurance
14 carrier or the insuring agency for the insured Tribe.

15 B. Public Health and Safety. The Tribe shall establish
16 for its Gaming Facility health, safety and construction
17 standards that are at least as stringent as the current editions
18 of the National Electrical Code, the Uniform Building Code, the
19 Uniform Mechanical Code, the Uniform Fire Code and the Uniform
20 Plumbing Code, and any and all gaming facilities or additions
21 thereto constructed by the Tribe hereafter shall be constructed
22 and all facilities shall be maintained so as to comply with such
23 standards. Inspections will be conducted with respect to these
24 standards at least annually. If the State Gaming Representative
25 requests sufficiently in advance of an annual inspection, the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 State Gaming Representative may be present during such
2 inspection. The Tribe agrees to correct any deficiencies noted
3 in such inspections within a reasonable period of time. The
4 Tribal Gaming Agency will provide copies of such inspection
5 reports to the State Gaming Representative, if requested to do
6 so in writing.

7 SECTION 9. Effective Date. This Compact shall be effective
8 immediately upon the occurrence of the last of the following:

- 9 A. execution by the Tribe's Governor after approval of the
10 Tribal Council;
- 11 B. execution by the Governor of the State;
- 12 C. approval by the Secretary of the Interior; and
- 13 D. publication in the Federal Register.

14 The Governor is authorized to execute compacts with an
15 individual Tribe that has also entered into revenue-sharing
16 agreements and has passed resolutions described herein, in
17 substantially the same form as set forth herein. Upon signature
18 by the Governor and the Tribe, the Compact shall be transmitted
19 to the Secretary of the Interior for approval.

20 SECTION 10. Criminal Jurisdiction.

21 The Tribe and the State acknowledge that under the
22 provisions of § 23 of the IGRA, especially that portion codified
23 at 18 U.S.C. § 1166(d), jurisdiction to prosecute violations of
24 State gambling laws made applicable by that section to Indian
25 country is vested exclusively within the United States, unless

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 the Tribe and the State agree in a compact entered into the IGRA
2 to transfer such jurisdiction to the State. The Tribe and the
3 State hereby agree that, in the event of any violation of any
4 State gambling law within the Indian Lands by any person who is
5 not a member of the Tribe, the State shall have and may exercise
6 jurisdiction, concurrent with that of the United States, to
7 prosecute such person, under its laws and in its courts;
8 provided, however, that this concurrent jurisdiction shall (1)
9 not take effect unless and until the State, the Tribe and the
10 Office of the United States Attorney for the District of New
11 Mexico shall have entered into a Memorandum of Understanding
12 with respect to the manner in which State, federal and tribal
13 law enforcement agencies shall cooperate in the detection of
14 violations, apprehension and detention of any suspected violator
15 and the investigation and prosecution of any charges brought by
16 the State pursuant to this section and (2) continue so long as
17 the Memorandum of Understanding remains in effect.

18 SECTION 11. Binding Effect and Duration.

19 A. This Compact shall be binding upon the State and Tribe
20 for a term of fifteen (15) years from the date it becomes
21 effective and will automatically renew for an additional five-
22 year (5-year) period.

23 B. Before the date that is one (1) year prior to the
24 expiration of the fifteen-year (15-year) initial term, and/or
25 before the date that is one year prior to the expiration of the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 five-year (5-year) renewal period, either party may serve
2 written notice on the other of its desire to renegotiate this
3 Compact.

4 C. In the event that either party gives written notice to
5 the other of its desire to renegotiate this Compact pursuant to
6 Subsection (B) of this section, the Tribe may, pursuant to the
7 procedures of the IGRA, request the State to enter into
8 negotiations for a new compact governing the conduct of Class
9 III Gaming. If the parties are unable to conclude a successor
10 compact, this Compact shall remain in full force and effect in
11 accordance with its terms pending exhaustion of the
12 administrative and judicial remedies set forth in the IGRA and
13 any other applicable federal law.

14 D. Notwithstanding the foregoing, at any time while this
15 Compact remains in effect, either party may, by written notice
16 to the other party, request reopening of negotiations with
17 respect to any provision of this Compact, or with respect to any
18 issue not addressed in the Compact, specifying such provision or
19 issue in such notice. No such request shall be unreasonably
20 refused, but neither party shall be required to agree to any
21 change in the Compact, and no agreement to supplement or amend
22 this Compact in any respect shall have any validity until the
23 same shall have been approved in writing by the Tribe, the State
24 and the Secretary of the Interior and notice of such approval
25 published in the Federal Register.

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 E. The Tribe may operate Class III Gaming only while this
2 Compact or any renegotiated compact is in effect.

3 SECTION 12. Severability.

4 In the event that any section or provision of this Compact
5 is held invalid by any court of competent jurisdiction, it is
6 the intent of the parties that the remaining sections or
7 provisions of this Compact, and any amendments thereto, shall
8 continue in full force and effect.

9 SECTION 13. Notice to Parties.

10 Unless otherwise indicated, all notices, payments,
11 requests, reports, information or demand that any party hereto
12 may desire or may be required to give to the other party hereto,
13 shall be in writing and shall be personally delivered or sent by
14 first-class mail sent to the other party at the address provided
15 in writing by the other party. Every notice, payment, request,
16 report, information or demand so given shall be deemed effective
17 upon receipt or, if mailed, upon receipt or the expiration of
18 the third day following the day of mailing, whichever occurs
19 first, except that any notice of change of address shall be
20 effective only upon receipt by the party to whom said notice is
21 addressed.

22 SECTION 14. Entire Agreement.

23 This Compact is the entire agreement between the parties
24 and supersedes all prior agreements, whether written or oral,
25 with respect to the subject matter hereof. Neither this Compact

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 nor any provision herein may be changed, waived, discharged or
2 terminated orally, but only by an instrument, in writing, signed
3 by the Tribe and the State and approved by the Secretary of the
4 Interior.

5 SECTION 15. Filing of Compact with State Records Center.

6 Upon the effective date of this Compact, a copy shall be
7 filed by the Governor with the New Mexico Records Center. Any
8 subsequent amendment or modification of this Compact shall be
9 filed with the New Mexico Records Center.

10 SECTION 16. Counterparts.

11 This Compact may be executed by the parties in any number
12 of separate counterparts with the same effect as if the
13 signatures were upon the same instrument. All such counterparts
14 shall together constitute one and the same document. "

15 Section 2. [NEW MATERIAL] REVENUE SHARING OF TRIBAL
16 GAMING REVENUE. --The governor is authorized to execute a
17 revenue-sharing agreement in the form substantially set forth in
18 this section with any New Mexico Indian nation, tribe or pueblo
19 that has also entered into an Indian gaming compact as provided
20 by law. Execution of an Indian gaming compact is conditioned
21 upon execution of a revenue-sharing agreement. The
22 consideration for the Indian entity entering into the revenue-
23 sharing agreement is the condition of the agreement providing
24 limited exclusivity of gaming activities to the tribal entity.
25 The revenue-sharing agreement shall be in substantially the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 following form and is effective when executed by the governor on
2 behalf of the state and the appropriate official of the Indian
3 entity:

4 "REVENUE-SHARING AGREEMENT

5 1. Summary and consideration. The Tribe shall agree to
6 contribute certain of its Class III Gaming revenues, as
7 described below.

8 2. Revenue to State. The parties agree that, after the
9 effective date hereof, the Tribe shall make semi-annual payments
10 to the General Fund of the State ("State General Fund").

11 3. Calculation of Revenue to State.

12 A. The parties agree that, as used herein, "net win"
13 is defined as the total amount wagered at each Gaming Facility
14 on Class III Gaming, which is protected by the limitations in
15 Paragraph 5, below, and elsewhere herein, minus the total amount
16 paid as prizes (including noncash prizes) and winning wagers at
17 said games, and minus all tribal regulatory fees and expenses,
18 supported by reasonable, adequate documentation, not to exceed
19 Two Hundred Fifty Thousand Dollars (\$250,000) per year and minus
20 federal and State regulatory fees and expenses, and taxes.

21 B. The total revenue the Tribe will pay to the State
22 in the aggregate pursuant to Paragraph 3, above, shall be
23 determined as follows:

24 (1) three percent (3%) of the first four million
25 dollars (\$4,000,000) of net win at each Gaming

. 116065. 1

- 1 Facility derived annually from Class III Gaming,
2 which is protected by the limitations herein;
- 3 (2) five percent (5%) of the next six million dollars
4 (\$6,000,000) of net win at each Gaming Facility
5 derived annually from Class III Gaming, which is
6 protected by the limitations herein; and/or
- 7 (3) eight percent (8%) of the net win over ten million
8 dollars (\$10,000,000) at each gaming facility
9 derived annually from Class III Gaming, which is
10 protected by the limitations provided herein.

11 C. For purposes of these payments, all calculations
12 of amounts due shall be based upon a calendar year beginning
13 January 1 and ending December 31, unless the parties agree on a
14 different fiscal year. The semiannual payments due to the State
15 pursuant to these terms shall be paid no later than twenty-five
16 (25) days after December 31 and June 30 of each year (or
17 commensurate dates if the fiscal year agreed upon is different
18 from the calendar year). Any payments due and owing from the
19 Tribe in the year the Compact is approved, or the final year the
20 Compact is in force, shall reflect the net win, but only for the
21 portion of the year the Compact is in effect.

22 4. Limitations. The Tribe's obligation to make the
23 payments provided for in Paragraphs 2 and 3 of this section
24 shall apply and continue only so long as there is a binding
25 Indian Gaming Compact in effect between the Tribe and the State,

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 which Compact provides for the play of Class III Gaming, but
2 shall terminate in the event of any of the following conditions:

3 A. If the State passes, amends, or repeals any law,
4 or takes any other action, which would directly or indirectly
5 attempt to restrict, or has the effect of restricting, the scope
6 of Indian gaming.

7 B. If the State permits any expansion of nontribal
8 Class III Gaming in the State. Notwithstanding this general
9 prohibition against permitted expansion of gaming activities,
10 the State may permit: (1) the enactment of a State lottery, (2)
11 any fraternal, veterans or other nonprofit membership
12 organization to operate such electronic gaming devices lawfully,
13 but only for the benefit of such organization's members, (3)
14 limited fundraising activities conducted by nonprofit tax exempt
15 organizations pursuant to Section 30-19-6 NMSA 1978, and (4) any
16 horse racetracks to operate electronic gaming devices on days on
17 which live or simulcast horse racing occurs. "Simulcast horse
18 racing" means live broadcasting of horse races occurring at
19 horseracing tracks elsewhere within New Mexico. However, for
20 any day on which electronic gaming devices are permitted to be
21 operated under this provision at any horse racetracks located
22 within one hundred fifty (150) miles of a Gaming Facility owned
23 by the Tribe, one-half (1/2) of the net win derived from
24 electronic gaming devices at such Gaming Facility for such day
25 would be exempt from any revenue-sharing obligation under the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 provisions of this Agreement (except if electronic gaming
2 devices are operated at such horse racetracks for more than
3 twelve (12) hours on any such day, all of the Tribe's revenues
4 from electronic gaming devices on such day shall be exempt from
5 any revenue-sharing obligation under the provisions of this
6 Agreement); and provided further that there will be no exemption
7 from State taxes imposed on the operation of electronic gaming
8 devices for those devices operated at horse racetracks.

9 5. Effect of Variance.

10 A. In the event the acts or omissions of the State
11 cause the Tribe's obligation to make payments under Paragraph 3
12 of this section to terminate under the provisions of Paragraph 4
13 of this section, such cessation of obligation to pay will not
14 adversely affect the validity of the Compact, but the maximum
15 amount that the Tribe agrees to reimburse the State for actual
16 documented regulatory costs under the Compact shall
17 automatically increase to one hundred thousand dollars
18 (\$100,000) per year.

19 B. In the event a Tribe's revenue-sharing payment to
20 the State is less than one hundred thousand dollars (\$100,000)
21 per year, the maximum amount that the Tribe agrees to reimburse
22 the State for actual documented regulatory costs under the
23 Compact shall automatically increase to one hundred thousand
24 dollars (\$100,000) per year less the amount of the revenue-
25 sharing payment.

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 6. Third-Party Beneficiaries. This Agreement is not
2 intended to create any third-party beneficiaries and is entered
3 into solely for the benefit of the Tribe and the State."

4 Section 3. [NEW MATERIAL] SHORT TITLE. -- Sections 3
5 through 26 of this act may be cited as the "Video Gambling Act".

6 Section 4. [NEW MATERIAL] AUTHORITY AND PURPOSE. -- The
7 purpose of the Video Gambling Act is to make lawful and regulate
8 the conduct and operation of certain electronic video games of
9 chance by certain nonprofit organizations and racetracks.

10 Section 5. [NEW MATERIAL] DEFINITIONS. -- As used in the
11 Video Gambling Act:

12 A. "director" means the director of the alcohol and
13 gaming division of the regulation and licensing department;

14 B. "distributor" means a person who sells, offers for
15 sale or furnishes to another person a video gambling machine;

16 C. "division" means the alcohol and gaming division
17 of the regulation and licensing department;

18 D. "fraternal organization" means any organization
19 within the state that is not organized for pecuniary profit, is
20 a branch, lodge or chapter of a national or state organization,
21 exists for the common business, brotherhood or other interests
22 of its members and has existed in New Mexico for at least three
23 years immediately prior to making application for a license
24 pursuant to the Video Gambling Act, but "fraternal organization"
25 does not include college and high school fraternities or

. 116065. 1

1 sororities;

2 E. "gross receipts" means the total amount of money
3 or the value of other consideration received from selling,
4 renting, leasing or distributing a video gambling machine, but
5 in an exchange in which the money or other consideration
6 received does not represent the value of the property exchanged,
7 "gross receipts" means the reasonable value of the property
8 exchanged as determined by the director;

9 F. "licensee" means the holder of any license issued
10 pursuant to the Video Gambling Act;

11 G. "liquor establishment" means a person licensed
12 pursuant to Section 60-6A-3 NMSA 1978 to dispense alcoholic
13 beverages, has permanent seating capacity for no fewer than
14 thirty patrons on the premises licensed pursuant to that section
15 and serves beer, wine and spirituous liquors;

16 H. "manufacturer" means a person that assembles, from
17 parts or raw materials, a video gambling machine;

18 I. "net drop" means the amount wagered on a video
19 gambling machine less the amounts paid as winnings on the
20 machine;

21 J. "operate" means to possess or maintain any video
22 gambling machine for the purpose of allowing a person to play
23 it;

24 K. "person" means an individual or other entity;

25 L. "play" means to activate a video gambling machine

. 116065. 1

1 and to manipulate or work it for the purpose of trying to win
2 money, prizes or other consideration;

3 M. "racetrack" means a facility or person licensed by
4 the state racing commission to conduct horse racing within this
5 state;

6 N. "veterans' organization" means any organization
7 within this state or any branch, lodge or chapter of a national
8 or state organization within this state that is organized not
9 for pecuniary profit, the membership of which consists entirely
10 of individuals who were members of the armed services of the
11 United States, and which has been in existence in New Mexico for
12 at least three years immediately prior to its making application
13 for a license under the Video Gambling Act; and

14 O. "video gambling machine" means an electronic
15 device, except amusement-type video game machines not operated
16 by a licensee that are commonly used for amusement only and only
17 pay out tickets or credits that may only be exchanged for
18 merchandise of insignificant value, that:

19 (1) upon payment of any consideration simulates
20 the play of any game of chance;

21 (2) utilizes a video display and
22 microprocessors; and

23 (3) by chance or through some combination of
24 chance and skill dispenses or the player may otherwise receive
25 cash, coins, tokens, free gambling or credits that can be

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 redeemed for cash, coins, tokens, prizes or other consideration.

2 Section 6. [NEW MATERIAL] PROHIBITION AGAINST
3 UNAUTHORIZED ACTS RELATING TO VIDEO GAMBLING. -- Except as
4 provided pursuant to a valid Indian gaming compact between the
5 state and an Indian nation, tribe or pueblo in effect and except
6 as provided pursuant to Section 30-19-6 NMSA 1978, no person
7 shall manufacture, import, sell, lease, rent, distribute,
8 operate, participate in the operation of or conduct an activity
9 using a video gambling machine without having first obtained an
10 appropriate license issued by the division pursuant to the Video
11 Gambling Act.

12 Section 7. [NEW MATERIAL] LICENSING-- GENERAL
13 PROVISIONS. --

14 A. A license may be issued only in accordance with
15 the provisions of the Video Gambling Act.

16 B. An applicant for a license or a licensee shall
17 produce records or evidence and give all information requested
18 by the director. An applicant or licensee shall not interfere
19 or attempt to interfere with any investigation by the director.

20 C. The director shall investigate the qualifications
21 of an applicant for a license and shall investigate the
22 conditions existing in the community in which the premises for
23 which a license is sought is located before the license is
24 issued so that a license is not issued to a person or for a
25 location if the issuance is prohibited by law or contrary to the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 public health or safety.

2 D. No license shall be issued to a person that:

3 (1) has been convicted of a felony; or

4 (2) has as a majority shareholder, director or
5 officer a person who has been convicted of a felony.

6 E. A licensee shall not employ in a position having
7 authority to conduct or supervise video gambling for the
8 licensee a person that has been convicted of a felony.

9 F. An applicant that is a proprietor shall file with
10 an application two complete sets of his fingerprints. An
11 applicant that is a general partnership shall file with an
12 application two complete sets of fingerprints of all general
13 partners.

14 G. If the applicant is a limited partnership, it
15 shall file two complete sets of fingerprints for each general
16 partner and for each limited partner contributing ten percent or
17 more of the total value of contributions made to the limited
18 partnership or entitled to ten percent or more of the profits
19 earned or other compensation by way of income paid by the
20 limited partnership.

21 H. If the applicant is a limited liability company,
22 it shall file two complete sets of fingerprints for each manager
23 or member with management responsibilities.

24 I. If the applicant is a corporation, it shall file
25 two complete sets of fingerprints for a stockholder holding ten

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 percent or more of the outstanding stock, principal officer,
2 director and the agent responsible for the operation of the
3 licensed business.

4 J. Fingerprints taken pursuant to the provisions of
5 this section shall be taken under the supervision of and
6 certified to by an officer of the New Mexico state police, a
7 county sheriff or a municipal chief of police.

8 K. The director may exchange identification records
9 and information with law enforcement agencies for official use.
10 Any identification records received from the United States
11 department of justice, including identification records based on
12 fingerprints, shall be used only for licensing purposes and to
13 achieve compliance with the provisions of the Video Gambling
14 Act. The department shall not disseminate information obtained
15 pursuant to the provisions of this subsection except to law
16 enforcement agencies for official use only.

17 L. An application for the issuance of a license or
18 annual renewal of a license shall be accompanied by a fee in the
19 following amounts:

20 (1) for manufacturer licensees, the initial
21 license fee shall be fifteen thousand dollars (\$15,000) and the
22 annual renewal fee shall be one thousand dollars (\$1,000); and

23 (2) for racetrack licensees, video gambling
24 machine licensees, a liquor establishment licensee and
25 distributor licensees, the initial license fee and the annual

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 renewal fee shall be one thousand dollars (\$1,000).

2 M The director shall prescribe the requirements for
3 and contents of each application, consistent with the provisions
4 of the Video Gambling Act.

5 N Licenses issued pursuant to the Video Gambling Act
6 shall expire on June 30 of each year and may be renewed upon
7 proper application and payment of the required application fee.
8 If a license expires, the licensee shall cease all activities
9 subject to licensure until the license is renewed.

10 O A licensee has no vested property right in a
11 license. It is the property of the state. Licenses issued
12 pursuant to the provisions of the Video Gambling Act are not
13 subject to sale, lease, devise, transfer, assignment, execution,
14 attachment, a security transaction, liens or receivership.

15 Section 8. [NEW MATERIAL] VIDEO GAMBLING MACHINE
16 LICENSE. --

17 A. A license may be issued to a fraternal
18 organization or veterans' organization to own or operate, or
19 both, video gambling machines for which permits have been issued
20 by the director.

21 B. A video gambling machine licensee may install and
22 operate video gambling machines only at the location stated in
23 its application and approved by the director.

24 C. No person other than an active member of a
25 veterans' organization or a fraternal organization that is a

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 video gambling machine licensee and bona fide guests of that
2 member may play video gambling machines operated by the video
3 gambling machine licensee.

4 D. A video gambling machine licensee shall report
5 information required by division regulations to the division
6 every three months. Forms for reporting shall be prescribed and
7 furnished by the director.

8 E. A video gambling machine licensee shall not
9 purchase, lease or otherwise acquire a video gambling machine
10 except from a distributor licensee.

11 F. No more than one video gambling machine for every
12 twenty members of a video gambling machine licensee, not to
13 exceed twenty-five machines per organization, shall be permitted
14 by the director or operated by the licensee.

15 Section 9. [NEW MATERIAL] RACETRACK LICENSE. --

16 A. A license may be issued to a racetrack to own or
17 operate, or both, video gambling machines for which permits have
18 been issued by the director.

19 B. A racetrack licensee may install and operate video
20 gambling machines only at the location stated in its application
21 and approved by the director.

22 C. A racetrack licensee shall not operate or allow a
23 person to play a video gambling machine at the racetrack except
24 in accordance with the following provisions:

25 (1) a video gambling machine shall not be

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 operated or played except on days that the racetrack is holding
2 a live formal race meet or simulcasting New Mexico horse race
3 meets authorized by the state racing commission and only during
4 the periods of time authorized by the commission but not to
5 exceed twelve consecutive hours on a day;

6 (2) members of the public patronizing the
7 racetrack, except minors, may play video gambling machines
8 operated by the racetrack licensee; and

9 (3) only racetrack employees may operate video
10 gambling machines at the racetrack.

11 D. A racetrack licensee shall report information
12 required by division regulations to the division every three
13 months. Forms for reporting shall be prescribed and furnished
14 by the director.

15 E. A racetrack licensee shall not purchase, lease or
16 otherwise acquire a video gambling machine except from a
17 distributor licensee.

18 Section 10. [NEW MATERIAL] LIQUOR ESTABLISHMENT
19 LICENSE. --

20 A. A license may be issued to a liquor establishment
21 to own or operate, or both, video gambling machines for which
22 permits have been issued by the director.

23 B. A liquor establishment licensee shall only operate
24 or allow a person to play a video gambling machine on premises
25 identified in the license issued to him pursuant to the Liquor

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 Control Act during the hours in which alcoholic beverages may be
2 served.

3 C. A liquor establishment licensee shall report
4 information required by division regulations to the division
5 every three months. Forms for reporting shall be prescribed and
6 furnished by the director.

7 D. A liquor establishment licensee shall not
8 purchase, lease or otherwise acquire a video gambling machine
9 except from a distributor licensee.

10 E. No more than five video gambling machines shall be
11 issued permits by the director to be located on the premises of
12 a liquor establishment licensee or operated by the liquor
13 establishment licensee.

14 Section 11. [NEW MATERIAL] MANUFACTURER LICENSE. --

15 A. A license may be issued to a person desiring to
16 manufacture video gambling machines in this state.

17 B. A person shall not manufacture video gambling
18 machines in this state without a license issued to the
19 manufacturer by the director.

20 C. Each licensed manufacturer shall report
21 information required by division regulations to the division
22 every three months. Forms for reporting shall be prescribed and
23 furnished by the director.

24 D. A licensed manufacturer shall not sell a video
25 gambling machine to or solicit the purchase of a video gambling

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 machine by a person other than a licensed distributor.

2 E. A licensed manufacturer shall not operate, receive
3 for resale or participate either directly or indirectly in the
4 operation or resale of a video gambling machine.

5 Section 12. [NEW MATERIAL] DISTRIBUTOR LICENSE. --

6 A. A license may be issued to a person desiring to
7 distribute video gambling machines in this state.

8 B. A person shall not distribute video gambling
9 machines in this state without a license issued by the director.

10 C. A licensed distributor shall not distribute a
11 video gambling machine except to racetrack, liquor establishment
12 or video gambling licensees.

13 D. A licensed distributor shall report information
14 required by division regulations to the division every three
15 months. Forms for reporting shall be prescribed and furnished by
16 the director.

17 E. A licensed distributor shall not operate or
18 participate either directly or indirectly in the operation of
19 any video gambling machine.

20 Section 13. [NEW MATERIAL] RULES AND REGULATIONS. --

21 A. The director may adopt reasonable rules and
22 regulations necessary to implement the Video Gambling Act.
23 Except for emergency regulations adopted pursuant to the
24 provisions of Subsection B of this section, no rule or
25 regulation affecting any person outside the division shall be

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 adopted, amended or repealed without a public hearing on the
2 proposed action before the director or a hearing officer
3 designated by him. The public hearing shall be held in Santa
4 Fe. Notice of the subject matter of the proposed action, the
5 date, time and place of the public hearing, the manner in which
6 an interested person may present his views and the method by
7 which copies of the proposed regulation, amendment or repeal may
8 be obtained shall be published once at least thirty days prior
9 to the hearing date in a newspaper of general circulation. All
10 regulations shall be filed in accordance with the State Rules
11 Act.

12 B. If the director determines that an emergency
13 exists that requires immediate action to implement or enforce
14 the provisions of the Video Gambling Act, he may adopt, amend or
15 repeal a regulation without notice and hearing and the emergency
16 action shall become effective immediately upon its filing under
17 the State Rules Act. The emergency adoption, amendment or
18 repeal of a regulation shall not continue in effect longer than
19 forty-five days unless within that time the director commences
20 proceedings to take the action by issuing the notice required in
21 Subsection A of this section. If the director commences
22 proceedings by issuing notice, the emergency adoption, amendment
23 or repeal of a regulation shall remain in effect until a
24 permanent action takes effect or until the procedures are
25 otherwise completed.

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 C. Regulations adopted by the director may provide
2 for the following:

3 (1) any reasonable reporting requirements in
4 addition to those set forth in the Video Gambling Act;

5 (2) required provisions in purchase or leasing
6 contracts relating to video gambling machines;

7 (3) appropriate security measures providing for
8 the safety of participants in the conduct of video gambling;

9 (4) the contents of and process for applications
10 for licenses or permits pursuant to the Video Gambling Act;

11 (5) electronic fund transfers from licensees of
12 taxes owed to the state as provided herein, and trust accounts
13 for the collection and maintenance of those funds; and

14 (6) other rules and regulations that are
15 consistent with the provisions of the Video Gambling Act and
16 provide for the integrity, honesty and security of the conduct
17 of video gambling activities by a licensee.

18 D. The division shall adopt by regulation mechanical
19 and electronic standards for video gambling machines ensuring
20 the integrity, honesty and security of the machines. The
21 standards shall not be more lenient than those applied to
22 similar machines in lawful use within the United States by any
23 other jurisdiction regulating the conduct of video gambling.

24 Section 14. [NEW MATERIAL] CONTRACT WITH NEW MEXICO
25 LOTTERY AUTHORITY. --The division shall enter into a contract
. 116065. 1

Underscored material = new
[bracketed material] = delete

1 with the New Mexico lottery authority to conduct the monitoring
2 of video gambling machines, including receiving and transmitting
3 information required by the Video Gambling Act to the division
4 by the authority. The contract shall allow the authority to
5 electronically disable any video gambling machine that is not
6 operated in compliance with the Video Gambling Act upon request
7 from the division. The contract is not subject to the
8 provisions of the Procurement Code, and may provide for the
9 compensation agreed to by the division and the authority.

10 Section 15. [NEW MATERIAL] PERMITS REQUIRED FOR VIDEO
11 GAMBLING MACHINES. --

12 A. A licensee that intends to operate a video
13 gambling machine shall file an application with the division for
14 a permit for each video gambling machine purchased, leased or
15 otherwise acquired by the licensee within twenty days of
16 purchasing, leasing or otherwise acquiring the machine. The
17 application shall be on forms prescribed and furnished by the
18 director. The division shall not issue a permit for any machine
19 that has not been tested in accordance with the provisions of
20 the Video Gambling Act or does not comply with standards adopted
21 by the division by regulation.

22 B. An application for a permit shall be accompanied
23 by a permit fee of one hundred dollars (\$100) per machine.

24 C. The division shall issue a permit number for a
25 machine based upon compliance with all applicable provisions of

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 the Video Gambling Act and upon filing a properly completed
2 application along with the required permit fee for the machine,
3 but the director may refuse to issue a permit for a specific
4 machine if he believes that the machine is inaccurate,
5 unreliable or will not be operated in accordance with the
6 provisions of the Video Gambling Act or regulations adopted
7 pursuant to that act.

8 D. A video gambling machine shall not be operated and
9 a person shall not play a video gambling machine unless the
10 licensee has a current permit to operate the machine.

11 E. An application for a permit shall provide
12 information required by regulations adopted by the director.

13 F. A licensee shall place a video gambling machine
14 into operation within ten days of issuance of the permit for
15 that machine. If the machine is not placed into operation
16 within ten days, the permit shall be canceled by the director.

17 Section 16. [NEW MATERIAL] VIDEO GAMBLING MACHINE TESTING
18 AND INSPECTION. --

19 A. A permit shall not be issued for a video gambling
20 machine unless it is first tested and certified for accuracy and
21 reliability by an independent testing laboratory approved by the
22 director. The costs of the testing shall be paid by the
23 licensee that proposes to operate the machine.

24 B. No video gambling machine may be operated if it,
25 or the software used to control its electronic functions, has

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 been modified in any way without having been tested after the
2 modification and certified for accuracy and reliability by an
3 independent testing laboratory approved by the director.

4 C. A video gambling machine and the premises at which
5 it is being operated or played shall be open to inspection at
6 all times by the director, his authorized employees or any law
7 enforcement officer. Whenever the director or any law
8 enforcement officer has probable cause to believe that any video
9 gambling machine was obtained from an unlicensed manufacturer or
10 distributor, is being operated by an unlicensed person, is being
11 operated without a permit or otherwise fails to meet the
12 requirements of the Video Gambling Act or regulations adopted
13 pursuant to that act, he shall remove and impound the video
14 gambling machine for the purpose of testing and detention and
15 shall retain possession of the machine until otherwise ordered
16 by a district court.

17 Section 17. [NEW MATERIAL] CONDUCT OF VIDEO MACHINE
18 GAMBLING. --

19 A. A licensee shall not allow access to a video
20 gambling machine for the purpose of play by a person who has not
21 reached his twenty-first birthday.

22 B. Except for video gambling machines located on the
23 premises of a racetrack licensee or a liquor establishment
24 licensee, a licensee shall not allow access to a video gambling
25 machine for the purpose of play by a person who is not a bona

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 fide member of the licensee or a bona fide guest of the member.

2 C. A video gambling machine for which a permit has
3 been issued by the division may be located and operated on a
4 liquor premises licensed pursuant to the Liquor Control Act if
5 the person holding the liquor license is also a video gambling
6 machine licensee or a liquor establishment licensee.

7 D. If a video gambling machine fails to meet
8 specifications and requirements of the Video Gambling Act or a
9 regulation adopted pursuant to that act after a permit is
10 issued, the licensee shall remove the machine from public access
11 immediately and not operate it until it has been adjusted to
12 meet all requirements.

13 E. All tables displaying prizes or awards shall be
14 prominently displayed on a video gambling machine operated by a
15 licensee. A licensee may establish house rules regulating the
16 operation or conduct of video gambling machines if the rules do
17 not conflict with provisions of the Video Gambling Act or a
18 regulation adopted pursuant to that act.

19 F. A licensee operating a video gambling machine
20 shall display on each machine, or in a conspicuously visible
21 place, the telephone number of the division that can be called
22 to report device malfunctions or complaints.

23 Section 18. [NEW MATERIAL] VIDEO GAMBLING MACHINE
24 REQUIREMENTS-- MONITORING. --

25 A. Prior to operation, a licensee, at his own

. 116065. 1

1 expense, shall connect each video gambling machine to existing
2 telecommunications lines and systems and ensure that the video
3 gambling machine is capable of providing the following
4 information to the division or its contractor through a data
5 report or detailed tape:

- 6 (1) the time of day in hours and minutes in
7 which the video gambling machine is in operation;
- 8 (2) the location of the video gambling machine;
- 9 (3) the number of the pool of tickets or deal
10 and the size of the pool;
- 11 (4) the serial and permit numbers of the video
12 gambling machine;
- 13 (5) the cumulative amount of money inserted into
14 the video gambling machine at any given time;
- 15 (6) the amount of money contained in the video
16 gambling machine at a given time;
- 17 (7) the amount of money, credits or other
18 consideration paid to players by the video gambling machine at
19 any given time;
- 20 (8) the version number of the software running
21 on the gambling machine; and
- 22 (9) other information required by regulations
23 adopted by the director.

24 B. A video gambling machine shall contain a printer
25 that is capable of printing a performance synopsis of the

. 116065. 1

1 gambling played and that creates an exact and identical copy of
2 all items printed that is retained inside the video gambling
3 machine. A video gambling machine shall have electronic and
4 mechanical meters. The printer inside the video gambling
5 machine shall be capable of printing the information on the
6 meters.

7 C. The main logic board and the printed circuit board
8 of a video gambling machine containing gambling erasable program
9 read-only memories shall be isolated in a locked area of the
10 video gambling machine. The memories shall be sealed to the
11 board by the manufacturer using a process approved by the
12 division. The sealing shall be of a type that permits field
13 examination of the memories and effective resealing after
14 examination.

15 D. A video gambling machine shall have a nonremovable
16 serial number plate that provides at least the following
17 information:

18 (1) the permit number issued by the division;

19 and

20 (2) the manufacturer's name, date of manufacture
21 and manufacturer's serial number.

22 E. Access to a video gambling machine shall be
23 controlled through locks.

24 F. A video gambling machine shall have surge
25 protection and battery backup systems and shall pass a static

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 discharge test of at least forty thousand volts.

2 G. A video gambling machine shall allow for random
3 play and winning.

4 H. Each video gambling machine shall be capable of
5 being deactivated by an electronic signal generated by the
6 division or its contractor.

7 Section 19. [NEW MATERIAL] TESTING, AUDITING AND SEIZURE
8 OF VIDEO GAMBLING MACHINES. --

9 A. The director may by written directive require a
10 licensee, at the licensee's expense, to have a video gambling
11 machine manufactured, distributed, owned, leased or operated by
12 that licensee tested for reliability and accuracy by an
13 independent laboratory approved or designated by the director.
14 No video gambling machine may be operated or distributed by a
15 licensee until it has been tested and the director is satisfied
16 that the video gambling machine is accurate and reliable based
17 upon the results of the test.

18 B. The director or his designated agents or
19 contractors may, without advance notice to the licensee, audit
20 or test the operation of a video gambling machine to ensure
21 reliability and accuracy. A licensee shall allow access to its
22 video gambling machines and its premises by the director or his
23 designated agents or contractors immediately upon request.

24 C. The director or his designated agents or
25 contractors may audit all records of a licensee, whether or not

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 they are in the licensee's possession, to ensure compliance with
2 the provisions of the Video Gambling Act or regulations adopted
3 pursuant to the provisions of that act. A licensee requested to
4 produce records relating to its video gambling machine
5 activities by the director, his designated agents or
6 contractors, shall do so immediately upon request.

7 D. The director may seize or seal a video gambling
8 machine, and he may order a licensee to cease operating a video
9 gambling machine, without prior notice if the director believes
10 that the licensee is violating any provision of the Video
11 Gambling Act or a regulation adopted pursuant to the provisions
12 of that act. He also may take the foregoing actions if a
13 machine is not accurate or reliable or has been changed or
14 modified in any manner not approved by the director.

15 Section 20. [NEW MATERIAL] DENIAL, SUSPENSION OR
16 REVOCATION OF LICENSE. --

17 A. The director may refuse to issue or renew a
18 license or suspend or revoke a license, and he may fine a
19 licensee in an amount not to exceed ten thousand dollars
20 (\$10,000) per incident, or both, upon a finding that the
21 applicant or licensee or any member, officer, director, employee
22 or agent of the applicant or licensee has:

23 (1) violated any provision of the Video Gambling
24 Act or a regulation adopted pursuant to that act;

25 (2) provided false or misleading information to

. 116065. 1

1 the director;

2 (3) been convicted of a felony or any gambling-
3 related offense;

4 (4) modified or changed any video gambling
5 machine so as to endanger or compromise its accuracy, security
6 or reliability;

7 (5) engaged in dishonest or deceptive practices
8 with respect to its video gambling machine activities; or

9 (6) conducted its video gambling activities in a
10 manner that may be considered a public nuisance.

11 B. When the director contemplates taking an action
12 against an applicant or licensee to refuse to issue or renew or
13 to revoke or suspend a license or impose a fine, he shall serve
14 written notice upon the applicant or licensee containing the
15 following:

16 (1) a statement that the director has sufficient
17 evidence that, if not rebutted or explained, will justify the
18 director in taking the contemplated action;

19 (2) a statement indicating the general nature of
20 the evidence; and

21 (3) a statement advising the applicant or
22 licensee that unless the applicant or licensee within twenty
23 days after service of the notice delivers a written request for
24 hearing to the director, the director will take the contemplated
25 action.

. 116065. 1

1 C. If the applicant or licensee does not deliver a
2 request for hearing within the time required by Paragraph (3) of
3 Subsection B of this section, the director may take the action
4 contemplated in the notice, and that action is final and not
5 subject to judicial review.

6 D. If the applicant or licensee delivers a request
7 for hearing within the time required by Paragraph (3) of
8 Subsection B of this section, the director shall, within twenty
9 days of receipt of the request, notify the applicant or licensee
10 of the time and place of hearing and the name of the person who
11 shall conduct the hearing for the director. The hearing shall
12 be held not more than sixty and not less than fifteen days from
13 the date of service of the notice of hearing.

14 E. Hearings held pursuant to the provisions of this
15 section shall be:

- 16 (1) in Santa Fe;
- 17 (2) conducted by the director or by a hearing
18 officer appointed by the director; and
- 19 (3) open to the public.

20 F. A licensee or applicant entitled to and requesting
21 a hearing has the right to be represented by counsel, to present
22 all relevant evidence, to examine all opposing witnesses, and to
23 have subpoenas issued by the director to compel the attendance
24 of witnesses and the production of documents.

25 G. The director or hearing officer may impose

. 116065. 1

1 appropriate evidentiary sanctions against a party who fails to
2 provide discovery or to comply with a subpoena.

3 H. The director or hearing officer shall cause a
4 complete record to be made of all evidence received during the
5 course of a hearing.

6 I. After a hearing has been completed, the director
7 shall render his decision as soon as is practicable.

8 J. An applicant or licensee that is aggrieved by an
9 adverse decision of the director may obtain a review of the
10 decision in the district court of Santa Fe county by filing with
11 the court a petition for review within twenty days after the
12 date of service of the decision. Failure to file a petition for
13 review in the manner and within the time stated shall operate as
14 a waiver of the right to judicial review and shall result in the
15 decision of the director becoming final.

16 K. Upon the review of a decision of the director, the
17 court shall affirm the decision of the director unless it finds
18 that the substantial rights of the petitioner have been
19 prejudiced because the decision was in violation of
20 constitutional provisions; in excess of the statutory authority
21 or jurisdiction of the director, or made upon unlawful
22 procedure; affected by other error of law; unsupported by
23 substantial evidence based upon a review of the entire record
24 submitted; or arbitrary or capricious.

25 L. A party to the review proceeding in the district

Underscored material = new
[bracketed material] = delete

1 court may appeal to the supreme court from the decision of the
2 district court.

3 Section 21. [NEW MATERIAL] SHIPMENT OF VIDEO GAMBLING
4 MACHINES. --Shipments of video gambling machines into this state
5 shall comply with all requirements of the Video Gambling Act and
6 all applicable federal laws.

7 Section 22. [NEW MATERIAL] RECORDS REQUIRED AND RECORD
8 RETENTION. --

9 A. In addition to other records required to be
10 generated or kept pursuant to the Video Gambling Act, each
11 licensee operating video gambling machines shall maintain
12 complete operation records, including audit tapes, and shall
13 make them available for inspection by the director, authorized
14 employees of the division or any law enforcement officer upon
15 request. Those records shall include:

16 (1) all permit and licensing documents issued by
17 the division;

18 (2) a complete record of all winnings paid out
19 by each video gambling machine, including the date, time and
20 amount of the winnings paid out;

21 (3) a record of gross receipts from operation of
22 each video gambling machine by date; and

23 (4) records required by regulations adopted
24 pursuant to the Video Gambling Act.

25 B. A licensee shall maintain records required by the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 Video Gambling Act, or a regulation adopted pursuant to that
2 act, within this state for a minimum of three years.

3 C. An applicant for a license or a licensee, as a
4 condition of issuance or continuation of licensure, shall grant
5 the director, or his designee, access to all tax returns
6 maintained by the United States internal revenue service or the
7 taxation and revenue department that have been filed on behalf
8 of any person having an ownership or other financial interest in
9 the applicant or the video gambling activities of the licensee
10 or having a function in relation to the video gambling
11 activities of the licensee. The director shall consider those
12 records when determining qualifications for initial and
13 continuing licensure or other actions pursuant to the Video
14 Gambling Act.

15 Section 23. [NEW MATERIAL] TAX IMPOSED--PURSE
16 ALLOCATION.--

17 A. An excise tax known as the "gambling tax" is
18 imposed upon the privilege of manufacturing, distributing or
19 operating a video gambling machine in this state or receiving
20 revenue from the operation of a video gambling machine within
21 this state. The amount of the gambling tax is, for:

22 (1) manufacturer licensees, ten percent of the
23 gross receipts from each sale or other transfer of a video
24 gambling machine manufactured within this state;

25 (2) distributor licensees, ten percent of gross

. 116065. 1

1 receipts from the distribution of a video gambling machine
2 within this state;

3 (3) video gambling machine licensees, fifteen
4 percent of the net drop derived from the operation of a video
5 gambling machine; and

6 (4) racetrack and liquor establishment
7 licensees, the following amounts:

8 (a) for the 1997 calendar year, fifteen
9 percent of the net drop derived from the operation of a video
10 gambling machine;

11 (b) for the calendar year beginning January
12 1, 1998 and ending December 31, 1998, twenty percent of the net
13 drop derived from the operation of a video gambling machine; and

14 (c) for the calendar year beginning January
15 1, 1999 and ending December 31, 1999 and each year thereafter,
16 twenty-five percent of the net drop derived from the operation
17 of a video gambling machine.

18 B. The gambling tax shall be paid to the division on
19 or before the twenty-fifth day of the month following the month
20 in which the taxable event occurs.

21 C. Revenue received by the division from the
22 imposition of the gambling tax shall be deposited into the
23 general fund.

24 D. In addition to the taxes set forth herein, each
25 racetrack licensee shall allocate not less than the following

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 amounts to purses in accordance with regulations adopted by the
2 state racing commission:

3 (1) for the 1997 calendar year, fifteen percent
4 of the net drop derived from the operation of a video gambling
5 machine;

6 (2) for the calendar year beginning January 1,
7 1998 and ending December 31, 1998, twenty percent of the net
8 drop derived from the operation of a video gambling machine; and

9 (3) for the calendar year beginning January 1,
10 1999 and ending December 31, 1999 and each year thereafter,
11 twenty-five percent of the net drop derived from the operation
12 of a video gambling machine.

13 Section 24. [NEW MATERIAL] CRIMINAL PENALTIES. -- A person
14 who violates a provision of the Video Gambling Act or a
15 regulation adopted pursuant to that act is guilty of a
16 misdemeanor and upon conviction shall be sentenced pursuant to
17 the provisions of Section 31-19-1 NMSA 1978. A person convicted
18 pursuant to this section is prohibited from owning, operating or
19 participating in the proceeds from the operation of a video
20 gambling machine for a period of five years after the date of
21 the conviction.

22 Section 25. [NEW MATERIAL] ENFORCEMENT. -- The special
23 investigations division of the department of public safety, and
24 any other law enforcement agency entering into a joint powers
25 agreement with the department of public safety, has the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 authority to enforce the provisions of the Video Gambling Act by
2 investigating all violations and by issuing administrative
3 citations or by initiating criminal prosecutions, or both.

4 Section 26. [NEW MATERIAL] FUND CREATED-- APPROPRIATION. --

5 There is created in the state treasury the "video gambling
6 fund". All money in the fund and all interest attributable to
7 it is appropriated to the division for the purpose of carrying
8 out the provisions of the Video Gambling Act. All license fees
9 paid by licensees pursuant to the provisions of the Video
10 Gambling Act or regulations adopted pursuant to that act shall
11 be credited to the fund. Money in the fund at the end of a
12 fiscal year shall not revert to the general fund.

13 Section 27. SEVERABILITY.--If any part or application of
14 the Video Gambling Act is held invalid, the remainder or its
15 application to other situations or persons shall not be
16 affected.

17 Section 28. Section 13-1-98 NMSA 1978 (being Laws 1984,
18 Chapter 65, Section 71, as amended) is amended to read:

19 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE. --The
20 provisions of the Procurement Code shall not apply to:

21 A. procurement of items of tangible personal property
22 or services by a state agency or a local public body from a
23 state agency, a local public body, the New Mexico lottery
24 authority or an external procurement unit except as otherwise
25 provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 B. procurement of tangible personal property or
2 services for the governor's mansion and grounds;

3 C. printing and duplicating contracts involving
4 materials [~~which~~] that are required to be filed in connection
5 with proceedings before administrative agencies or state or
6 federal courts;

7 D. purchases of publicly provided or publicly
8 regulated gas, electricity, water, sewer and refuse collection
9 services;

10 E. purchases of books and periodicals from the
11 publishers or copyright holders thereof;

12 F. travel or shipping by common carrier or by private
13 conveyance or to meals and lodging;

14 G. purchase of livestock at auction rings or to the
15 procurement of animals to be used for research and
16 experimentation or exhibit;

17 H. contracts with businesses for public school
18 transportation services;

19 I. procurement of tangible personal property or
20 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
21 by the corrections industries division of the corrections
22 department pursuant to regulations adopted by the corrections
23 [~~industries~~] commission, which shall be reviewed by the
24 purchasing division of the general services department prior to
25 adoption;

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 J. minor purchases consisting of magazine
2 subscriptions, conference registration fees and other similar
3 purchases where prepayments are required;

4 K. municipalities having adopted home rule charters
5 and having enacted their own purchasing ordinances;

6 L. the issuance, sale and delivery of public
7 securities pursuant to the applicable authorizing statute, with
8 the exception of bond attorneys and general financial
9 consultants;

10 M contracts entered into by a local public body with
11 a private independent contractor for the operation, or provision
12 and operation, of a jail pursuant to Sections 33-3-26 and
13 33-3-27 NMSA 1978;

14 N. contracts for maintenance of grounds and
15 facilities at highway rest stops and other employment
16 opportunities, excluding those intended for the direct care and
17 support of persons with handicaps, entered into by state
18 agencies with private, nonprofit, independent contractors who
19 provide services to persons with handicaps;

20 O. contracts and expenditures for services to be paid
21 or compensated by money or other property transferred to New
22 Mexico law enforcement agencies by the United States department
23 of justice drug enforcement administration;

24 P. contracts for retirement and other benefits
25 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978; and

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 Q. contracts with professional entertainers. "

2 Section 29. Section 30-19-1 NMSA 1978 (being Laws 1963,
3 Chapter 303, Section 19-1, as amended) is amended to read:

4 "30-19-1. DEFINITIONS RELATING TO GAMBLING. --As used in
5 Chapter 30, Article 19 NMSA 1978:

6 A. "antique gambling device" means a gambling device
7 twenty-five years of age or older and substantially in original
8 condition that is not used for gambling or commercial gambling
9 or located in a gambling place;

10 B. "bet" means a bargain in which the parties agree
11 that, dependent upon chance, even though accompanied by some
12 skill, one stands to win or lose anything of value specified in
13 the agreement. A bet does not include:

14 (1) bona fide business transactions that are
15 valid under the law of contracts, including ~~[without~~
16 ~~limitation]~~:

17 (a) contracts for the purchase or sale, at
18 a future date, of securities or other commodities; and

19 (b) agreements to compensate for loss
20 caused by the happening of the chance, including ~~[without~~
21 ~~limitation]~~ contracts for indemnity or guaranty and life or
22 health and accident insurance;

23 (2) offers of purses, prizes or premiums to the
24 actual contestants in any bona fide contest for the
25 determination of skill, speed, strength or endurance or to the

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 bona fide owners of animals or vehicles entered in such contest;

2 (3) a lottery as defined in this section; or

3 (4) betting otherwise permitted by law;

4 C. "lottery" means an enterprise other than the New
5 Mexico state lottery established and operated pursuant to the
6 New Mexico Lottery Act wherein, for a consideration, the
7 participants are given an opportunity to win a prize, the award
8 of which is determined by chance, even though accompanied by
9 some skill. As used in this subsection, "consideration" means
10 anything of pecuniary value required to be paid to the promoter
11 in order to participate in such enterprise;

12 D. "gambling device" means a contrivance other than
13 an antique gambling device that, for a consideration, affords
14 the player an opportunity to obtain anything of value, the award
15 of which is determined by chance, even though accompanied by
16 some skill and whether or not the prize is automatically paid by
17 the device, but "gambling device" does not include a video
18 gambling machine for which a permit has been issued pursuant to
19 the Video Gambling Act; and

20 E. "gambling place" means any building or tent, any
21 vehicle, whether self-propelled or not, or any room within any
22 of them, one of whose principal uses is:

23 (1) making and settling of bets;

24 (2) receiving, holding, recording or forwarding
25 bets or offers to bet;

. 116065. 1

Underscored material = new
[bracketed material] = delete

- 1 (3) conducting lotteries; or
- 2 (4) playing gambling devices. "

3 Section 30. Section 30-19-6 NMSA 1978 (being Laws 1963,
4 Chapter 303, Section 19-6, as amended) is amended to read:

5 "30-19-6. [~~PERMISSIVE LOTTERY~~] AUTHORIZED ACTIVITIES--
6 FAIRS--THEATERS--TAX-EXEMPT ORGANIZATIONS. --

7 A. Nothing in [~~Article 19~~] Chapter 30, Article 19
8 NMSA 1978 [~~shall be construed to apply to any~~] prohibits a sale
9 or drawing of [~~any~~] a prize at [~~any~~] a fair held in this state
10 for the benefit of [~~any~~] a church, public library or religious
11 society [~~situate or being~~] located in this state, or for
12 charitable purposes when all the proceeds of [~~such~~] the fair
13 [~~shall be~~] are expended in this state for the benefit of [~~such~~]
14 the church, public library, religious society or charitable
15 purposes. A [~~lottery shall be operated~~] sale or drawing
16 conducted pursuant to this subsection is for the benefit of the
17 organization or charitable purpose only [~~when~~] if the entire
18 proceeds [~~of the lottery~~] from the sale or drawing go to the
19 organization or charitable purpose and no part of [~~such~~] the
20 proceeds go to [~~any~~] an individual member or employee [~~thereof~~]
21 of the organization.

22 B. Nothing in [~~Article 19~~] Chapter 30, Article 19
23 NMSA 1978 [~~shall be held to prohibit any~~] prohibits a bona fide
24 motion picture [~~theatre~~] theater from offering prizes of cash or
25 merchandise for advertising purposes, in connection with [~~such~~]

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 the business of the theater or for the purpose of stimulating
2 business, whether or not [~~any~~] consideration other than a
3 monetary consideration in excess of the regular price of
4 admission is [~~exacted~~] charged for participation in drawings for
5 prizes.

6 C. Nothing in [~~Article 19~~] Chapter 30, Article 19
7 NMSA 1978 [~~shall be held to apply to any~~] prohibits a bona fide
8 county fair, including [~~fairs~~] a fair for more than one county,
9 [~~which shall have~~] that has been held annually at the same
10 location for at least two years [~~and which shall offer~~] from
11 offering prizes of livestock or poultry in connection with
12 [~~such~~] the fair [~~when~~] if the proceeds of [~~such~~] the drawings
13 [~~shall be~~] are used for the benefit of [~~said~~] the fair.

14 [~~D. Nothing in Article 19, Chapter 30 NMSA 1978 shall~~
15 ~~be construed to apply to any lottery operated by an organization~~
16 ~~exempt from the state income tax pursuant to Subsection C of~~
17 ~~Section 7-2-4 NMSA 1978 and not subject to the provisions of~~
18 ~~Subsection A of this section; provided that:~~

19 (1) ~~no more than two lotteries shall be operated~~
20 ~~in any year by such an organization;~~

21 (2) ~~all the gross proceeds less the reasonable~~
22 ~~cost of prizes of any lottery operated by such an organization~~
23 ~~shall be expended in the state for the benefit of the~~
24 ~~organization or public purposes; and~~

25 (3) ~~no part of the proceeds of any lottery shall~~

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 ~~go to any individual member or employee of any organization~~
2 ~~except as payment for the purchase of prizes at no more than the~~
3 ~~reasonable retail price.]~~

4 D. Nothing in Chapter 30, Article 19 NMSA 1978

5 prohibits an organization that is exempt from state income tax
6 pursuant to Section 7-2-4 NMSA 1978 and in good standing as a
7 not for profit corporation as shown by the records of the state
8 corporation commission from conducting electronic gambling,
9 bingo games, raffles, lotteries or table games, including poker,
10 craps, blackjack, roulette and the like, at a fundraising event
11 if:

12 (1) the fundraising event is conducted no more
13 than four times in a calendar year by the qualifying
14 organization;

15 (2) the only persons authorized to participate
16 in the operation or management of the fundraising event are:

17 (a) bona fide members of the qualifying
18 organization who are not paid for their services in the
19 operation or management of the event; or

20 (b) persons who provide goods or services
21 for the fundraising event for a flat fee or an hourly fee
22 pursuant to a written contract with the qualifying organization;

23 (3) no person receives any part of the proceeds
24 of the fundraising event except:

25 (a) as payment for prizes purchased at no

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 more than the reasonable retail prices for the prizes; or

2 (b) pursuant to a contract described in
3 Subparagraph (b) of Paragraph (2) of this subsection;

4 (4) the net proceeds of the fundraising event
5 are expended in the state for the benefit of the qualifying
6 organization or purposes for which it was formed;

7 (5) gross revenue, expenses, prizes paid and the
8 date, time and location of the fundraising event are reported to
9 the alcohol and gaming division of the regulation and licensing
10 department within thirty days after the event;

11 (6) the qualifying organization conducting the
12 fundraising event maintains records for a period of one year
13 after the date of the event that accurately show the gross
14 revenue generated by the event, details of the expenses of
15 conducting the event and details of how the gross revenue is
16 used, and the qualifying organization makes the records
17 available for review by the director of the alcohol and gaming
18 division of the regulation and licensing department or the
19 attorney general, or both, at their request;

20 (7) no more than five electronic gambling
21 devices are operated during the fundraising event;

22 (8) no person younger than the age of twenty-one
23 is allowed to participate in the operation or management of the
24 fundraising event or to play any game at the event; and

25 (9) the fundraising event is conducted pursuant

. 116065. 1

Underscored material = new
[bracketed material] = delete

1 to regulations and a permit issued by the alcohol and gaming
2 division of the regulation and licensing department.

3 E. As used in Subsection D of this section
4 "electronic gambling device" means a gambling device consisting
5 of an electronic device that simulates the play of any game of
6 chance, uses microprocessors and that, by chance or through some
7 combination of chance and skill, the device dispenses or the
8 player may otherwise receive cash, coins, tokens for free games
9 or credits that can be redeemed for cash, coins or tokens;
10 "electronic gambling" means the play of an electronic gambling
11 device. Electronic gambling conducted pursuant to the
12 provisions of this section shall be conducted in accordance with
13 regulations adopted by the regulation and licensing department.
14 Those regulations may provide for minimum standards for
15 security, restrictions of amounts wagered, limits on amounts
16 paid by electronic gambling devices, recordkeeping by the
17 operator and sponsor of the gaming event and monitoring.
18 electronic or otherwise, of the electronic gambling conducted.

19 F. The provisions of the Bingo and Raffle Act and the
20 New Mexico Lottery Act do not apply to the activities described
21 in Subsection D of this section.

22 G. Activities authorized by this section may be
23 conducted on licensed premises, as that term is defined in
24 Section 60-3A-3 NMSA 1978. "

25 Section 31. EMERGENCY.--It is necessary for the public

. 116065. 1

Underscored material = new
~~[bracketed material] = delete~~

1 peace, health and safety that this act take effect immediately.

2 - 89 -

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

. 116065. 1